

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**April 2, 2008**

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, April 2, 2008. The following Commissioners were present: Alexander Easterday, Chair, George Lewis, Jamie Bemis, and Steve Verrill. Montgomery Lovejoy arrived at 7:05 p.m. Delia Kaye, Natural Resources Administrator, and Cynthia L. Gray, Natural Resources Administrative Assistant, were also present.

**CONTINUANCES:**

**BRYANT** – 61 Musketquid Road – Removing a portion of the existing single-family dwelling and constructing an addition together with site improvements including constructing a retaining wall, expanding the paved driveway, vista pruning, and landscaping within Bordering Land Subject to Flooding, the 200-foot Riverfront Area of the Sudbury River, and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-964**

Greg Roy of Ducharme & Dillis Civil Design Group appeared together with the applicants, James Bryant and Christine Cournoyer. Supplemental changes dated April 2, 2008 were submitted to the Commission at this evening's meeting together with a copy of the updated plan. The area of alteration has been relabeled limit of work. No approvals are necessary from the Zoning Board of Appeals relative to the Wetland Conservancy District and the Floodplain Conservancy District.

This hearing was continued to April 16, 2008 at which time the Commission expects to close the hearing and issue a permit.

**CONCORD HOUSING TRUST, INC. / NOI** – 335 Walden Street - The proposed project involves demolishing the existing house, barn and two sheds; constructing two residential buildings with associated facilities and parking; constructing a storage shed; and stormwater treatment facility within Bordering Land Subject to Flooding and 100-foot Buffer Zone of Bordering Vegetated Wetland, **DEP File #137-965**

Scott Smyers of Oxbow Associates appeared together with applicant, Peter Farrow of the Concord Housing Trust, Inc. Peter Farrow supplied a copy of the progress print at this evening's hearing. The Commission recommended that the applicant consider a green barrier (vegetation) instead of the proposed stockade fence. Physical barrier markings with stones will be placed at 25 feet instead of 15 feet from the wetland boundary and will be shown on a revised plan. Revised calculations and plans were submitted to DEP last week. DNR staff suggested that the applicant note invasive species locations on the plan. A soil and seed mix for the basin was noted on Sheet No. C-8 of the plan revised March 31, 2008.

The Commission suggested herbaceous plantings in the bio-retention pond instead of trees. The Commission also suggested the installation of granite bounds between the housing and open space portion of the premises. The applicant could install a few ½ yard boulders to be shown on the as-built plan at the property corners. The applicant stated that he wanted to be able to get vehicles to the back portion of the premises for maintenance purposes and the boulder placements as proposed by the Commission would not allow access for a vehicle. Jamie Bemis informed the Commission about the approved CPC meeting minutes dated March 4, 2008 in which there was a difference in what was established in the meeting minutes and what was noted on the applicant's plan relative to asphalt versus pervious surface. The Commission requested that the applicant supply staff with final plans and the Commission would then hold a Natural Resources Commission meeting next week, if needed, in order to close and issue the permit. Miscellaneous debris located in the back corner of the proposed open space portion of the premises still requires removal as previously discussed with the applicant at the last Natural Resources Commission meeting.

This hearing was continued to April 9, 2008 at which time the Commission expects to close the hearing and issue a permit.

#### **NEW APPLICATIONS:**

**NASHOBA BROOKS SCHOOL / ANRAD** – 200, 266, 280 Strawberry Hill Road & 3B Macone Farm Lane, DEP File # 137-966 - Confirmation of certain wetland resource area boundaries on the property.

Rich Harrington of Stamski & McNary together with David Crossman of B & C Associates appeared on behalf of the applicant. There are several resource areas onsite, including a pond system in the northern portion of the site. The ponds are likely manmade, as is the stream channel that flows from the ponds to Angiers Pond. This stream channel was probably created to drain wetlands for agriculture. The applicant is requesting that the Commission determine this channel is a pond, though it is shown in USGS mapping as a perennial stream. Karl Kussin, Director of Development at Nashoba Brooks School noted that there is an existing conservation access easement on the northern portion of the site, but not a conservation restriction.

A site visit was scheduled for 3:00 p.m. on April 7, 2008. All parties should meet at the 266 Strawberry Hill parking lot. This hearing was continued to April 16, 2008.

**WOOD / RDA** – 40 Spencer Brook Road – Replacing a failed septic system with associated grading within the 200-foot Riverfront Area of the Pond and 100-foot Buffer Zone of Bordering Vegetated Wetland.

Ben Ewing of Stamski & McNary appeared on behalf of the applicant. The Board of Health has reviewed the plan. The Commission suggested that a visual barrier (erosion

controls) be established in the field and reviewed and approved by DNR staff. The Commission will include a Finding in the Order not approving the wetland boundary.

Steve Verrill moved to issue a Negative Determination #3 with Special Conditions, as amended. Montgomery Lovejoy seconded. All so voted.

### **REQUEST FOR EXTENSION:**

**NORMANDY CONCORD ACQUISITION LLC (Roadway Order) – 300 Baker Avenue Extension, DEP File #137-691.** Continued to April 16, 2008.

**SILVER HILL POND – off Silver Hill Road, DEP File #137-534.** Continued to April 16, 2008.

### **OTHER BUSINESS:**

#### **Town Meeting Articles**

**ARTICLE 27:** To determine whether the Town will vote to authorize the Selectmen to submit the schematic (so called “25% design”) of the Bruce Freeman Rail Trail to the Massachusetts Highway Department for approval, after which, only significant changes will require further approval of Town Meeting. Significant changes are defined as: (1) change in the route; (2) additional parking, rest stops or restroom locations, (3) Increase in trail width; or (4) change to the proposed surface of the trail. The Selectmen will determine if a revision to the schematic design is a significant change or take any other action relative thereto. The Commission discussed the many natural resources issues associated with the Bruce Freeman Rail Trail project. The Commission also supports long-term planning beyond their purview of the Act. Montgomery Lovejoy, Jamie Bemis and Alexander Easterday noted their support of Warrant Article 27. Steve Verrill and George Lewis noted that they were not opposed to Warrant Article 27. Montgomery Lovejoy moved that the NRC consider supporting Warrant Article 27 at Town Meeting. Jennifer Bemis seconded. All so voted.

**ARTICLE 28:** To determine whether the Town will vote to: (1) authorize the Selectmen to submit a 25% design for the Bruce Freeman Rail Trail (BFRT) that is based on the design commissioned by the Concord Greenways Alliance (CGA) to State agencies for approval; (2) accept a sum up to \$10,000, or any other sum, from CGA to be expended under the direction of the Town Manager to cover costs of the changes needed in the 25% design created by Vanasse Hangen Brustlin, Inc. in order to create a 25% design consistent with CGA’s design; (3) raise and appropriate, or transfer from available funds in the treasury, a sum up to \$10,000, or any other sum, to be expended under the direction of the Town Manager to cover costs of the changes needed in the 25% design created by Vanasse Hangen Brustlin, Inc. in order to create at 25% design consistent with CGA’s design that are in excess of the funds provided by CGA; and (4) require that any significant changes (but only significant changes) from CGA’s design require further approval of Town

Meeting before a revised design for the BFRT incorporating them can be submitted to any State agency or used as the basis for building the BFRT in Concord: Significant changes being defined as: (1) change in the trail route or access points; (2) additional parking or restroom locations; (3) increase in trail width; (4) change to the proposed surface of the trail; (5) additional bridge or under pass construction; or (6) increase in the width within which construction is allowed, or taking any other action relevant thereto. Stone dust is proposed for the entire length of the trail. There is a concern relative to a different 25% design. Steve Verrill stated that if the 25% design were changed to increase the width of the trail, he would be opposed to that concept. The Commission noted that The Concord Greenways Alliance (CGA) will be conducting a public meeting to review and answer questions on its design for A Better Bruce Freeman Rail Trail on Tuesday, April 8, 2008 at 7:30 p.m. at the Harvey Wheeler Center. After further discussion, the Commission determined that it would be advantageous to attend this public meeting to see what alternatives might be discussed. Al Easterday will attend and report back to the Commission at the April 9, 2008 meeting.

This matter was continued to April 9, 2008 for further discussion among the Commission.

**ARTICLE 29:** To determine whether the Town will vote to authorize the Board of Selectmen to submit to the Massachusetts Highway Department, a schematic design (so-called "25% design") which specifies a hard center trail surface, and wherever possible, soft-surface shoulders, for the entire length of the Bruce Freeman Rail Trail in Concord from Route 2 to the Sudbury town line, and that provides access to all Concord citizens and fully and easily supports all of the following uses: walking, running, road and mountain biking, wheelchairs and accessible cycling equipment, in-line skating, scooters and tricycles, rolling backpacks, strollers, and cross-country skiing; or take any other action relative thereto. Delia Kaye stated the trail surface should be landscape sensitive. What the Advisory Committee has recommended may reduce speeds of users, which takes into account wildlife as well as people in wheelchairs. Jamie Bemis stated her support of Warrant Article 29. George Lewis stated he was not convinced that the Natural Resources Commission should take a position on Article 29. Steve Verrill stated that he was not committed. Montgomery Lovejoy stated that it was his preference to wait to see other design work and recommended the Commission not to take a position on Article 29. Alexander Easterday noted that the 25% design is not complete and that it could ultimately change. Mr. Easterday recommended that the Commission take no position on Article 29.

This matter was continued to April 9, 2008 for further discussion among the Commission.

**ARTICLE 30:** To determine whether the Town will vote to raise and appropriate, or transfer from available funds in the Treasury the sum of \$50,000, or any other sum, to be expended under the direction of the Town Manager, for further study and design of the Bruce Freeman Rail Trail in Concord, including but not limited to: refinement of the design of the MBTA crossing, street crossings and access

ramps, including engineering, survey, and any other related work; or take any other action relative thereto. The Commission noted that there are both environmental and wildlife issues concerning Article 30. Jamie Bemis, Steve Verrill, Alexander Easterday and Montgomery Lovejoy all noted their support for Article 30. George Lewis noted his discomfort with Article 30. Jamie Bemis moved that the NRC support Warrant Article 30. Steve Verrill seconded. Alexander Easterday and Montgomery Lovejoy concurred. George Lewis opposed.

**ARTICLE 31: To determine whether the Town will vote to appropriate the sum of \$1,632,500 from the Concord Community Preservation Fund, of which \$30,000 shall be appropriated from the undesignated fund balance as of June 30, 2008, \$242,500 from funds previously allocated to Open Space and Housing Reserve funds and \$1,360,000 from projected Fiscal Year 2009 Fund Revenues, in accordance with Massachusetts General Laws, Chapter 44B, and amendments thereof and additions thereto, to be expended under the direction of the Town Manager.** Steve Verrill questioned the CPA FY 09 Fund Revenues as broken down in proposed Warrant Article 31. After further discussion, the Commission noted that this Article, as presented, was to be voted on as a whole and complete package and not by individual fund revenue breakdowns. These fund revenues have been approved by the Community Preservation Committee. The Commission noted their unanimous support of Warrant Article 31. Montgomery Lovejoy moved to issue support of Warrant Article 31 at Town Meeting. Steve Verrill seconded. All so voted.

**ARTICLE 32: To determine whether the Town will vote to appropriate the sum of \$450,000.00 from the Community Preservation Fund, of which \$450,000.00 shall be appropriated from the undesignated Fund balance as of June 30, 2008, in accordance with Massachusetts General Laws, Chapter 44B, and amendments thereof and additions thereto, to be expended under the direction of the Town Manager for the purpose of purchasing the property at 335 Walden Street, \$225,000 of such funds to be used to purchase the major portion of the property for Open Space; and, \$225,000 of such funds to be used to purchase the remainder of the property for Community Housing.** The Commission noted their unanimous support of Warrant Article 32. George Lewis moved to issue support of Warrant Article 32 at Town Meeting. Jamie Bemis seconded. All so voted.

**ARTICLE 33: To determine whether the Town will vote to appropriate the sum of \$160,000.00 from the Community Preservation Fund, of which \$94,414.00 shall be appropriated from the undesignated Fund balance as of June 30, 2008 and \$65,586.00 shall be appropriated from the projected Fiscal Year 2009 Fund Revenues, in accordance with Massachusetts General Laws, Chapter 44B, and amendments thereof and additions thereto, to be expended under the direction of the Town Manager for the purpose of construction of up to five units of community housing on a portion of the property at 335 Walden Street, including the costs of design, engineering, permitting and other costs related thereto, or take any other action relative thereto.** The Commission determined Warrant Article 33 to be outside NRC purview.

**ARTICLE 34:** To determine whether the Town will accept the Hugh Cargill Farm Management Plan as proposed by the Hugh Cargill Farm Management Plan Task Force and request the Board of Selectmen to implement its provisions, or take any other action relative thereto. Delia Kaye is the Commission designee on the Hugh Cargill Farm Management Plan Task Force. Copies of the Plan have been forwarded to the Commission for review. After further discussion, the Commission stated their support of Article 34. Jamie Bemis moved to issue support for Article 34 at Town Meeting. George Lewis seconded. All so voted.

**ARTICLE 35: (Revised Article 35)** To establish a process whereby, when land acquisitions involve Town funds, affordable housing is considered as one possible use of the land before any final commitments are made. The Town Manager and the Board of Selectmen will be responsible for ensuring that a housing representative is present from the start of discussions to determine probable land uses. The Article printed in the Warrant for Town Meeting has been revised. Terry Rothermel presented the revision to the Commission at their last meeting. After discussion, the Commission determined that this Article was of concern because there is the potential for landowners interested in selling their land to the town to be less inclined to do so if they felt it would be built upon, particularly for the last remaining agricultural parcels that are enormously valuable as farmland. Jamie Bemis, Montgomery Lovejoy, Alexander Easterday and Steve Verrill all voted to oppose Article 35. George Lewis voted no position on Article 35.

#### **BFRT Warrant Articles – Elissa Brown, Jill Appel**

Elissa Brown presented Warrant Article 27. A 12-footwide paved trail is being proposed in the Town of Acton. Concord is proposing a 10-ft. wide trail with 3 proposed parking areas. The Board of Selectman and the Recreation Commission are in support of Article 27. The Finance Committee has not yet made their decision. It is also unclear if the Historical District has made a decision at the present time.

Elissa Brown presented Warrant Article 30. As a result of Town Meeting, changes may be established. The sum of \$50,000 is being requested to continue the 25% design process. No priorities have been established at this time. If this Article passes at Town Meeting, this would then allow the negotiation process to commence with MassHighway.

Judy LaRocca and Jill Appel presented Warrant Article 29. Both Judy LaRocca and Jill Appel are supporters of the rail trail and the Bruce Freeman Rail Trail Advisory Committee. Jill Appel stated that they would like to pave the two-mile section of the trail between the Assabet River to the Sudbury Town line that the BFRT AC recommends in Article 27 be stabilized stone dust. It was noted that the Wachusett Greenway consists of a stone dust trail. The Upper Charles River Greenway consists of a New England stabilized surface. Article 29 is supported by the Recreation Commission and was recently been endorsed by the Council on Aging. The Commission inquired if this idea

had been brought before the BFRT AC. Jill Appel noted that it had, but that it was not received unanimously among the Bruce Freeman Rail Trail Committee.

**Crosby's Corner Reconstruction Project Update – Presentation by, Louis Berger Inc.**

Phil Kendall, Project Manager and Craig Wood Senior Ecologist, both of the Louis Berger Group, presented the Commission with an update of this project. Phil Kendall stated this as is a safety improvement project with wetland impacts greater than is allowed under the WPA standards in both Concord and Lincoln, so a Variance from the WPA is required. Craig Wood noted 20,000 square feet in Concord, similar in Lincoln, of wetland impact. Much of the impact results from the Concord off-ramp at Crosby's Corner. There is a 1:1 ratio replacement to BVW proposed in Concord; 1.5 to 1 in Lincoln. Mill Brook will need to be relocated in the Route 2 area, resulting in a net loss in stream length. The Commission recommended that MassHighway dialogue with the ACOE relative to the 1:1 ratio replication to discuss other opportunities. Delia Kaye suggested that MassHighway investigate wetland replacement opportunities that would not carve out valuable forested upland. She recommended that they look into the possibility of mitigating impacts by removing some of the slope behind the MassHighway facility on the other side of Route 2, adjacent to Crosby's Pond.

There are several retaining walls throughout the project to minimize impact. The proposed wildlife culvert is 4 feet by 6 feet and 135 feet long. They believe that this is the largest culvert that can be designed but acknowledge it is less than what the ACOE stream crossing standards require. The Commission expressed concern with the wildlife underpass openness ratio of 0.05.

The project is currently in the 75% stage. MassHighway anticipates filing a Notice of Intent this summer. Mass Highway is currently attempting to secure additional funding. The design is anticipated for completion in one year. Construction costs are estimated to be \$130 million, \$30 million from takings along Route 2. There are willing sellers along the propose project route with no eminent domain expected. The Sandy Pond Road interchange was redesigned. The Deaconess Assisted Living Community would have a separate access road to Route 2, not direct access. The Commission requested that DNR staff write a letter to MassHighway documenting the meeting and Commission concerns.

**Breitmaier Request for Superseding Order of Conditions – 50 Garfield Road, Lot 2**

John Rockwood, Ph. D, Senior Environmental Scientist of EcoTec, Inc. submitted a Request for Superseding Order of Conditions, DEP File #137-962 on behalf of the applicant, Steven Breitmaier of Brite Excavating Co., Inc. As of this meeting, the Division of Natural Resources has not received a formal letter from DEP as to a scheduled site visit.

**McGregor & Associates – Request for Superseding Order of Conditions – BFRT**

A site visit has been scheduled by DEP on April 16, 2008 at 10:00 a.m. commencing at the Willard School to view the area noted as Wetland Flags 3 and 3A.

**Approve February 20, 2008 meeting minutes**

Montgomery Lovejoy moved to approve the February 20, 2008 meeting minutes. George Lewis seconded. Montgomery Lovejoy, Alexander Easterday, Jamie Bemis and George Lewis so voted. Steve Verrill abstained.

**Approve March 5, 2008 meeting minutes**

Montgomery Lovejoy moved to approve the March 5, 2008 meeting minutes, as amended. Jamie Bemis seconded. Montgomery Lovejoy, Alexander Easterday, Jamie Bemis and George Lewis so voted. Steve Verrill abstained.

**Approve March 7, 2008 meeting minutes**

Montgomery Lovejoy moved to approve the March 7, 2008 meeting minutes. George Lewis seconded. Montgomery Lovejoy, Alexander Easterday, and George Lewis so voted. Steve Verrill and Jamie Bemis abstained.

**Musketaquid Earth Day – May 3**

The Commission will be reserving a table for Earth Day. The Commission also agreed that this would be a very good opportunity to advertise the Commission's upcoming Wetland Bylaw Outreach Meetings.

**CLOSE HEARING/ISSUE PERMITS:**

**CONCORD GREENE CONDOMINIUM ASSOCIATION (Extension), DEP File #137-833**

Jennifer Bemis moved to close the hearing. Steve Verrill seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. Jennifer Bemis moved to issue a 3-year Extension with Special Conditions. Steve Verrill seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. Alexander Easterday and Montgomery Lovejoy abstained.

**ANNURSNAC HILL ASSOCIATION POND (Extension), DEP File #137-638**

Steve Verrill moved to close the hearing. George Lewis seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. Steve Verrill moved to issue a 3-year Extension with Special Conditions. George Lewis seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. Alexander Easterday and Montgomery Lovejoy abstained.

**GRACE PROPERTIES, LLC (Malouf)(Denial Request to Amend) – 63B Cambridge Turnpike, DEP File #137-919**

George Lewis moved to close the hearing. Jamie Bemis seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. George Lewis moved to issue a Denial Amended Order of Conditions. Jamie Bemis seconded. Jennifer Bemis, Steve Verrill and George Lewis so voted. Alexander Easterday and Montgomery Lovejoy abstained.



This meeting adjourned at 10:45 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant

